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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,190	04/19/2001	Steven Russell Day		1515

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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT PAPER NUMBER

3618

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/839,190

Applicant(s)
Day et al.

Examiner
Vanaman

Art Unit
3618



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 7, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-11, and 14-18 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-11, and 14-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

Art Unit: 3618

Status of Application

1. Applicant's Request for Reconsideration has been entered in the application. Claims 1-6, 8-11, 14-18 remain pending and have not been amended.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1, 8, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Rodriguez (US 2,200,935, cited previously). Rodriguez '935 teaches a skateboard having an elongated deck (10), a plate (11') with a perimeter including sides and ends, and having a top surface directly abutting a lower surface of the deck (10), the plate perimeter being located within the deck perimeter; first and second trucks (14) located at opposing deck ends, and having respective pairs of wheels (16, 17), and connected to the deck (10) through fasteners such as bolts or screws (15), which pass through apertures in the plate (not referenced) in order to mount to the deck (10), wherein the plate is attached to the deck between the deck and mounting faces (18) of the trucks, the mounting faces of the trucks having a width of same dimension as the plate width (note also figure 2), the plate having a front extent which is flush with the front-most edge of the front truck mounting face.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 2-6, 9-11, and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez (US 2,200,935).

As regards claims 2, 10, and 16, the reference of Rodriguez '935 fails to teach the plate as being made of a resilient plastic material. Resilient plastics are very well known in the manufacturing arts, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to make the plate of Rodriguez '935 from a plastic such as a

Art Unit: 3618

polycarbonate, for the purpose of providing a plate which is both light weight and has a high impact strength, thus improving the life-span of the plate under use.

As regards claims 3, 11, 17 and 18, the reference of Rodriguez '935 fails to teach a specific thickness for the plate, however it is well known to adjust the thickness of structural members of a designed mechanism to meet a specific requirement, such as a height, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to adjust the thickness of the plate of Rodriguez '935 to between 0.1 and 0.33, or more specifically 0.25 inches, for the purpose of optimizing the height which is added to the skateboard by the use of the plate.

As regards claims 6, 9, and 15, the reference to Rodriguez '935 fails to teach the length as being equivalent to the span between the ends of the mounting bases (the front extents being flush, but the rear extents having an overhang), however it is well known to decrease the size of manufactured elements for the purposes of using lesser quantities of material, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to size the plate of Rodriguez '935 to be equal to the distal end span of the mounting bases of the wheel trucks for the purpose of achieving an incremental reduction in cost of manufacturing the board.

Response to Arguments

6. Applicant's comments have been considered. Applicant has argued that the plate taught by Rodriguez has more mounting locations than applicant's, however the reference to Rodriguez teaches all of the mounting locations which have been positively claimed, thus the reference is deemed to meet the limitations as currently written.

Applicant argues that the plate taught by Rodriguez is not a 'slide plate', however, the plate taught by Rodriguez can provide a sliding surface to the extent to which is has been claimed. Also, please note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of

Art Unit: 3618

performing the intended use, then it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

As regards the 'unobtrusive' characteristic of the plate, while applicant argues this limitation, it does not appear to be actually recited in the claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3618

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is (703) 308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

Assistant Commissioner for Patents

Washington, DC 20231

or faxed to :

(703) 305-3597 or 305-7687 (for formal communications intended for entry; informal or draft communications may be faxed to the same number but should be clearly labeled "UNOFFICIAL" or "DRAFT")

The Office has also established electronic fax servers for Technology Center 3600 as follows:

703-872-9326 (Official communications)

703-872-9327 (Official After Final communications)

703-872-9325 (Customer Service)

F. VANAMAN
Primary Examiner
Art Unit 3618

F. Vanaman
March 10, 2003



3/10/03